

रजिस्टर्ड नं० ल०-33/एस०एम० 14.



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, वीरवार, 8 फरवरी, 1990/19 माघ, 1911

हिमाचल प्रदेश सरकार

विधि विभाग

अधिसूचना

शिमला-2, 8 फरवरी, 1990

क्रमांक एल०एल०आर० (डी) (6) 15/89-लैजिस्लेशन (भाग-I).—हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 200 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए तारीख 7 फरवरी, 1990 को अनुमोदित पंजाब प्राबकारी (हिमाचल प्रदेश प्रथम संशोधन) विधेयक, 1989 (1989 का 14) को 1990 के हिमाचल प्रदेश अधिनियम

संख्यांक 3 के रूप में संविधान के अनुच्छेद 348(3) के अधीन उस के प्राधिकृत पाठ सहित, हिमाचल प्रदेश राजपत्र में प्रकाशित करते हैं ।

आदेश द्वारा,
राजकुमार महाजन,
सचिव (विधि) ।

पंजाब आबकारी (हिमाचल प्रदेश प्रथम संशोधन) अधिनियम, 1989

(राज्यपाल महोदय द्वारा तारीख 7 फरवरी, 1990 को यथा अनुमोदित)

पंजाब पुनर्गठन अधिनियम, 1966 (1966 का 31) की धारा 5 के अधीन हिमाचल प्रदेश में जोड़े गए क्षेत्रों में यथा प्रवृत्त पंजाब आबकारी अधिनियम, 1914 (1914 का पंजाब अधिनियम सं० 1) में और संशोधन करने के लिए अधिनियम।

भारत गणराज्य के चालीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

1. इस अधिनियम का संक्षिप्त नाम पंजाब आबकारी (हिमाचल प्रदेश प्रथम संशोधन) अधिनियम, 1989 है । संक्षिप्त नाम ।
2. पंजाब पुनर्गठन अधिनियम, 1966 (जिसे इसमें इसके पश्चात् मूल अधिनियम कहा गया है) की धारा 5 के अधीन हिमाचल प्रदेश में जोड़े गए क्षेत्रों में यथा लागू पंजाब आबकारी अधिनियम, 1914 की धारा 3 में— धारा 3 का संशोधन ।
 - (क) खण्ड (4) का लोप किया जाएगा ;
 - (ख) खण्ड (13) की मद् (iv) में “the Dangerous Drugs Act, 1930” शब्दों और अंकों के स्थान पर “the Narcotic Drugs and Psychotropic Substances Act, 1985” शब्द और अंक रखे जाएंगे ।
3. मूल अधिनियम की धारा 7 में “the Sea Customs Act, 1878, the Cantonment Act, 1910, or the Indian Tariff Act, 1894”, शब्दों, चिह्नों और अंकों के स्थान पर “the Customs Act, 1962, the Cantonment Act, 1924, or the Customs Tariff Act, 1975” शब्द, चिह्न और अंक प्रतिस्थापित किए जाएंगे । धारा 7 का संशोधन ।
4. मूल अधिनियम की धारा 8 के खण्ड (b) में,— धारा 8 का संशोधन ।
 - (i) “Commissioner” और “division” शब्दों के स्थान पर क्रमशः “Collector” और “District” शब्द रखे जाएंगे; और
 - (ii) खण्ड (c) का लोप किया जाएगा ।
5. मूल अधिनियम की धारा 12 में, “and of the Excise Commissioner shall extend to the territories specified in sub-section (1) of section 5 of the Punjab Re-organisation Act, 1966, the jurisdiction of Commissioners shall extend to their divisions” शब्दों, चिह्नों और अंकों के स्थान पर “shall extend to the territories specified in sub-section (1) of section 5 of the Punjab Re-organisation Act, 1966” शब्द, चिह्न और अंक रखे जाएंगे । धारा 12 का संशोधन ।

धारा 13 का संशोधन । 6. मूल अधिनियम की धारा 13 के खण्ड (a) में आये "or Commissioner" शब्दों और खण्ड (b) में आये चिह्न और शब्द, "Commissioner" का लोप किया जाएगा ।

धारा 15 का प्रतिस्थापन । 7. मूल अधिनियम की धारा 15 के स्थान पर निम्नलिखित रखी जाएगी, अर्थात्:—

"15. Revision.—(a) The Financial Commissioner may at any time revise any order passed by any Excise Officer subordinate to him.

(b) A Collector may call for the record of any case pending before, or disposed of by, any Excise Officer subordinate to him and, if he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner:

Provided that the Financial Commissioner shall not under this section pass an order revising or modifying any proceeding or order of a subordinate Excise Officer and affecting any person without giving such person an opportunity of being heard."

धारा 24 का संशोधन । 8. मूल अधिनियम की धारा 24 की उप-धारा (2) के स्थान पर निम्नलिखित उप-धारा (2) रखी जाएगी:—

"(2) Sub-section (1) shall not apply to any intoxicant in the possession of any Excise Officer, common carrier or warehouse-man as such."

धारा 26 का संशोधन । 9. मूल अधिनियम की धारा 26 की उप-धारा (3) में आये "except Part B States" शब्दों और अक्षरों का लोप किया जाएगा ।

धारा 30 का संशोधन । 10. मूल अधिनियम की धारा 30 में,—

(क) विद्यमान हाशिये शीर्ष के स्थान पर निम्नलिखित शीर्ष रखा जाएगा, अर्थात्:—

"Prohibition of employment of children and of men under the age of twenty-one years and of women"; और

(ख) "any woman", शब्दों के पश्चात् "or any child" शब्द अन्तःस्थापित किए जाएंगे ।

धारा 31 का संशोधन । 11. मूल अधिनियम की धारा 31 के विद्यमान परन्तुक के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:—

"Provided that the duty shall not be so imposed on any article which has been imported into India and was liable on importation to duty under the Customs Tariff Act, 1975, or the Customs Act, 1962."

धारा 36 का संशोधन । 12. मूल अधिनियम की धारा 36 में,—

(क) खण्ड (d) में "the Dangerous Drugs Act, 1930, or under the Merchandise Marks Act, 1889" शब्दों, चिह्नों और अक्षरों के स्थान पर "the Narcotic Drugs and Psychotropic

- 1985 का 61 Substances Act, 1985 or under the Trade and Mer-
1958 का 43 chandise Marks Act, 1958" शब्द, चिह्न और अंक रखे जाएंगे; और
- (ख) खण्ड (e) में "clause (8) of section 167 of the Sea
1878 का 8 Customs Act, 1878" शब्दों, चिह्न और अंक के स्थान पर "section
1962 का 52 135 of the Customs Act, 1962" शब्द, चिह्न और अंक रखे जाएंगे।
- 1878 का 1 13. मूल अधिनियम की धारा 37 में, "the Opium Act, 1878" शब्दों, चिह्न धारा 37 का
और अंकों के स्थान पर "the Narcotic Drugs and Psychotropic संशोधन।
1985 का 61 Substances Act, 1985" शब्द, चिह्न और अंक रखे जाएंगे।
- 1898 का 5 14. मूल अधिनियम की धारा 46 की उप-धारा (2) में "XIV of the Code of धारा 46 का
1974 का 2 Criminal Procedure, 1898" शब्दों, चिह्न और अंकों के स्थान पर "XII संशोधन।
of Code of Criminal Procedure, 1973" शब्द, चिह्न और अंक रखे जाएंगे।
15. मूल अधिनियम की धारा 50 में "1898" अंक के स्थान पर "1973" धारा 50 का
अंक रखे जाएंगे। संशोधन।
16. मूल अधिनियम की विद्यमान धारा 57 के स्थान पर निम्नलिखित रखी जाएगी, धारा 57 का
अर्थात्:— संशोधन।
- "57. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the State Government or any Officer of the State Government or any other person exercising any power or discharging any functions or performing any duties under this Act, for any thing in good faith done or ordered to be done or intended to be done under this Act or any rule or order made thereunder or under any other law for the time being in force relating to the excise revenue."
17. मूल अधिनियम की धारा 59 के खण्ड (f) के उप-खण्ड (iii) के पश्चात् धारा 59 का
निम्नलिखित नया उप-खण्ड (iii-a) जोड़ा जाएगा, अर्थात्:— संशोधन।
- "(iii-a) the price above which any intoxicant shall not be sold or supplied;"
18. मूल अधिनियम की धारा 61 में,— धारा 61 का
(i) उप-धारा (1) में "two thousand rupees, and if found in संशोधन।
possession of working still for the manufacture of any
intoxicant shall be punishable with the minimum
sentence of six months' imprisonment and fine of
two hundred rupees." शब्दों और चिह्नों के स्थान पर "five
thousand rupees;" शब्द और चिह्न रखे जाएंगे; और
(ii) उप-धारा (1) में निम्नलिखित परन्तुक जोड़ा जाएगा, अर्थात्:—
- "Provided that in the case of an offence relating to the possession of—
(i) a working still for the manufacture of any intoxicant, such
imprisonment shall not be less than one year and such fine shall
not be less than five thousand rupees;

(ii) lahan, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees;

(iii) country liquor manufactured otherwise than in a licensed distillery in Himachal Pradesh, in a quantity not exceeding ten bottles, each bottle containing 750 millilitres, such imprisonment shall not be less than three months and such fine shall not be less than five hundred rupees; and in a quantity exceeding ten bottles of the aforesaid capacity, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees;

(iv) foreign liquor other than—

(a) manufactured in a licensed distillery or brewery in India; or

(b) imported into India on which custom duty is leviable under the Customs Tariff Act, 1975, or the Customs Act, 1962;

1975 का

51

1962 का

52

such imprisonment shall not be less than six months and such fine shall not be less than two thousand rupees."

धारा 62 का
संशोधन ।

19. मूल अधिनियम की धारा 62 में,—

(i) विद्यमान शीर्ष के स्थान पर निम्नलिखित रखा जायेगा अर्थात्:—

"Penalty for contravention of sections 29 and 30 etc.";

(ii) खण्ड (बी) में "any man under the age of twenty-five years or women" शब्दों के स्थान पर "any man under the age of twenty-one years or woman or any child" शब्द रखे जाएंगे;

(iii) खण्ड (ई) में "five-hundred" शब्द के स्थान पर "two thousand" शब्द रखे जाएंगे ।

धारा 63 का
संशोधन ।

20. मूल अधिनियम की धारा 63 में "one year" और "one thousand" शब्दों के स्थान पर क्रमशः "five years" और "five thousand" शब्द रखे जाएंगे ।

धारा 64 का
संशोधन ।

21. मूल अधिनियम की धारा 64 में "three months" और "five hundred" शब्दों के स्थान पर क्रमशः "one year" और "two thousand" शब्द रखे जाएंगे ।

धारा 66 का
संशोधन ।

22. मूल अधिनियम की धारा 66 में,—

(क) उप-धारा (1) में "three months and with fine which may extend to one thousand rupees" शब्दों के स्थान पर "one year and with fine which shall not be less than two thousand rupees" शब्द रखे जाएंगे; और

(ख) उप-धारा (2) में "two hundred", शब्दों के स्थान पर "two thousand" शब्द रखे जाएंगे ।

23. मूल अधिनियम की धारा 68 में "two hundred rupees" शब्दों के स्थान पर "one thousand rupees" शब्द रखे जाएंगे। धारा 68 का संशोधन।

24. मूल अधिनियम की धारा 68-ए में,—

धारा 68-ए का संशोधन।

(क) प्रथम परन्तुक में "three years and a fine of two thousand rupees" शब्दों के स्थान पर "five years and a fine of five thousand rupees" शब्द रखे जाएंगे ; और

(ख) द्वितीय परन्तुक में "three years" शब्दों के स्थान पर "five years" शब्द रखे जाएंगे।

25. मूल अधिनियम की धारा 69-ए की उप-धारा (2) और धारा 71 में "1898" अंक के स्थान पर, जहां भी यह अंक आया है "1973" अंक रखा जाएगा।

धारा 69-ए और 71 का संशोधन।

26. मूल अधिनियम की धारा 72 में,—

धारा 72 का संशोधन।

(क) "1898" अंक के स्थान पर "1973" अंक रखा जाएगा ; और

(ख) विद्यमान परन्तुक के स्थान पर निम्नलिखित परन्तुक रखा जाएगा; अर्थात् :—

"Provided that the offences punishable under clauses (i) and (ii) of the proviso to sub-section (1) of section 61 and of possession of country liquor and foreign liquor in a quantity exceeding ten bottles of 750 millilitres capacity each, punishable under clauses (iii) and (iv) of the proviso to sub-section (1) of section 61 shall be non-bailable".

27. मूल अधिनियम की धारा 73 की उप-धारा (4) में,—

धारा 73 का संशोधन।

"sections 499 to 502, 513, 514 and 515 of the Code of Criminal Procedure, 1898" शब्दों, चिह्नों और अंकों के स्थान पर "Chapter XXXIII of the Code of Criminal Procedure, 1973" शब्द, चिह्न और अंक रखे जाएंगे।

1898 का 5

1974 का 2

AUTHORITATIVE ENGLISH TEXT

Act No. 3 of 1990.

THE PUNJAB EXCISE (HIMACHAL PRADESH FIRST AMENDMENT) ACT, 1989

(AS ASSENTED TO BY THE GOVERNOR ON 7TH FEBRUARY, 1990)

AN
ACT

further to amend the Punjab Excise Act, 1914 (Punjab Act No. 1 of 1914) as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fortieth Year of the Republic of India as follows:—

- Short title. 1. This Act may be called the Punjab Excise (Himachal Pradesh First Amendment) Act, 1989.
- Amendment of section 3. 2. In section 3 of the Punjab Excise Act, 1914, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (hereinafter called the principal Act)—
- (a) clause (4) shall be omitted; and
- (b) in item (iv) of clause (13) for the words and figures “the Dangerous Drugs Act, 1930”, the words and figures “the Narcotic Drugs and Psychotropic Substances Act, 1985”, shall be substituted.
- Amendment of section 7. 3. In section 7 of the principal Act, for the words, signs and figures “the Sea Customs Act, 1878, the Cantonment Act, 1910, or the Indian Tariff Act, 1894”, the words, signs and figures “the Customs Act, 1962, the Cantonment Act, 1924, or the Customs Tariff Act, 1975” shall be substituted.
- Amendment of section 8. 4. In clause (b) of section 8 of the principal Act—
- (i) for the words “Commissioner” and “division”, the words “Collector” and “district” shall respectively be substituted; and
- (ii) clause (c) shall be omitted.
- Amendment of section 12. 5. In section 12 of the principal Act, for the words, signs and figures “and of the Excise Commissioner shall extend to the territories specified in sub-section (1) of section 5 of the Punjab Re-organisation Act, 1966, the jurisdiction of Commissioners shall extend to their divisions”, the words, signs and figures “shall extend to the territories specified in sub-section (1) of section 5 of the Punjab Re-organisation Act, 1966” shall be substituted.
- Amendment of section 13. 6. The words “or Commissioner” occurring in clause (a) and the sign and word, “Commissioner” occurring in clause (b) of section 13 of the principal Act shall be omitted.

7. For section 15 of the principal Act, the following shall be substituted, namely:—

Substitution
of section
15.

“15. *Revision.*—(a) The Financial Commissioner may at any time revise any order passed by any Excise Officer subordinate to him.

(b) A Collector may call for the record of any case pending before or disposed of by, any Excise Officer subordinate to him and, if he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner :

Provided that the Financial Commissioner shall not under this section pass an order revising or modifying any proceeding or order of a subordinate Excise Officer and affecting any person without giving such person an opportunity of being heard.”

8. For sub-section (2) of section 24 of the principal Act, the following sub-section (2) shall be substituted, namely:—

Amendment
of section
24.

“(2) Sub-section (1) shall not apply to any intoxicant in the possession of any Excise Officer, common carrier or warehouseman as such.”

9. The words and letter “except Part B States” occurring in sub-section (3) of section 26 of the principal Act, shall be omitted.

Amendment
of section
26.

10. In section 30 of the principal Act,—

Amendment
of section
30.

(a) for the existing marginal heading, the following shall be substituted, namely:—

“Prohibition of employment of children and of men under the age of twenty-one years and of women”; and

(b) for the words and figure, “any man under the age of 25 years or any woman”, the words “any man under the age of twenty-one years or any woman or any child” shall be substituted.

11. For the existing proviso to section 31 of the principal Act, the following shall be substituted, namely:—

Amendment
of section
31.

“Provided that the duty shall not be so imposed on any article which has been imported into India and was liable on importation to duty under the Customs Tariff Act, 1975, or the Customs Act, 1962.”

12. In section 36 of the principal Act,—

Amendment
of section
36.

(a) in clause (d), for the words, signs and figures “the Dangerous Drugs Act, 1930 or under the Merchandise Marks Act, 1889” the words, signs and figures “the Narcotic Drugs and Psychotropic Substances Act, 1985 or under the Trade and Merchandise Marks Act, 1958” shall be substituted; and

51 of 1975.
52 of 1962.

2 of 1930.
4 of 1889.
61 of 1985.
43 of 1958.

- (b) in clause (e), for the words, sign and figures "clause (8) of section 167 of the Sea Customs Act, 1878", the words, sign and figures "section 135 of the Customs Act, 1962" shall be substituted. 8 of 1878.
52 of 1962.
- Amendment of section 37. 13. In section 37 of the principal Act, for the words, sign and figure "the Opium Act, 1878", the words, sign and figure "the Narcotic Drugs and Psychotropic Substances Act, 1985" shall be substituted. 1 of 1878.
61 of 1985.
- Amendment of section 46. 14. In sub-section (2) of section 46 of the principal Act, for the words, sign and figures "XIV of the Code of Criminal Procedure, 1898", the words, sign and figures "XII of the Code of Criminal Procedure, 1973", shall be substituted. 5 of 1898.
2 of 1974.
- Amendment of section 50. 15. In section 50 of the principal Act, for the figure "1898", the figure "1973" shall be substituted.
- Substitution of section 57. 16. For the existing section 57 of the principal Act, the following shall be substituted, namely:—
- "57. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the State Government or any Officer of the State Government or any other person exercising any power or discharging any functions or performing any duties under this Act, for anything in good faith done or ordered to be done or intended to be done under this Act or any rule or order made thereunder or under any other law for the time being in force relating to the excise revenue."
- Amendment of section 59. 17. After sub-clause (iii) of clause (f) of section 59 of the principal Act, the following new sub-clause (iii-a) shall be inserted, namely:—
- "(iii-a) the price above which any intoxicant shall not be sold or supplied;"
- Amendment of section 61. 18. In section 61 of the principal Act,—
- (i) in sub-section (1), for the words and signs, "two thousand rupees, and if found in possession of working still for the manufacture of any intoxicant shall be punishable with the minimum sentence of six months' imprisonment and fine of two hundred rupees," the words and sign "five thousand rupees;" shall be substituted; and
- (ii) to sub-section (1), the following proviso shall be added, namely:—
- "Provided that in the case of an offence relating to the possession of—
- (i) a working still for the manufacture of any intoxicant, such imprisonment shall not be less than one year and such fine shall not be less than five thousand rupees;

- (ii) lahan, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees;
- (iii) country liquor manufactured otherwise than in a licensed distillery in Himachal Pradesh, in a quantity not exceeding ten bottles, each bottle containing 750 millilitres, such imprisonment shall not be less than three months and such fine shall not be less than five hundred rupees; and in a quantity exceeding ten bottles of the aforesaid capacity, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees;
- (iv) foreign liquor other than—

- (a) manufactured in a licensed distillery or brewery in India; or
- (b) imported into India on which custom duty is leviable under the Customs Tariff Act, 1975, or the Customs Act, 1962;

such imprisonment shall not be less than six months and such fine shall not be less than two thousand rupees."

19. In section 62 of the principal Act,—

Amendment
of section
62.

- (i) for the existing heading, the following shall be substituted namely:—

"Penalty for contravention of sections 29 & 30 etc.";

- (ii) in clause (b), for the words "any man under the age of twenty-five years or women", the words "any man under the age of twenty-one years or woman or any child" shall be substituted;
- (iii) for the words "five hundred", the words "two thousand" shall be substituted.

20. In section 63 of the principal Act, for the words "one year" and "one thousand", the words "five years" and "five thousand" shall respectively be substituted.

Amendment
of section
63.

21. In section 64 of the principal Act, for the words "three months" and "five hundred", the words "one year" and "two thousand" shall respectively be substituted.

Amendment
of section
64.

22. In section 66 of the principal Act,—

Amendment
of section
66.

- (a) in sub-section (1), for the words "three months and with fine which may extend to one thousand rupees", the words "one year and with fine which shall not be less than two thousand rupees" shall be substituted; and
- (b) in sub-section (2), for the words "two hundred", the words "two thousand", shall be substituted.

- Amendment of section 68. 23. In section 68 of the principal Act, for the words "two hundred rupees", the words "one thousand rupees" shall be substituted.
- Amendment of section 68-A. 24. In section 68-A of the principal Act,—
 (a) in the first proviso for the words "three years and a fine of two thousand rupees", the words "five years and a fine of five thousand rupees" shall be substituted; and
 (b) in the second proviso for the words "three years", the words "five years", shall be substituted.
- Amendment of sections 69-A and 71. 25. In sub-section (2) of section 69-A and section 71 of the principal Act, for the figure "1898" wherever it occurs, the figure "1973" shall be substituted.
- Amendment of section 72. 26. In section 72 of the principal Act,—
 (a) for the figure "1898", the figure "1973" shall be substituted; and
 (b) for the existing proviso, the following proviso shall be substituted, namely:—
 "Provided that the offences punishable under clauses (i) and (ii) of the proviso to sub-section (1) of section 61 and of possession of country liquor and foreign liquor in a quantity exceeding ten bottles of 750 millilitres capacity each, punishable under clauses (iii) and (iv) of the proviso to sub-section (1) of section 61 shall be non-bailable."
- Amendment of section 73. 27. In sub-section (4) of section 73 of the principal Act, for the words, figures and signs "sections 499 to 502, 513, 514 and 515 of the Code of Criminal Procedure, 1898", the words, sign and figures "Chapter XXXIII of the Code of Criminal Procedure, 1973", shall be substituted.

5 of 1898
2 of 1974